

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PATRICK McCAMEY,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 3:20-cv-183
)	Judge Stephanie L. Haines
JOHN WETZEL, <i>et al.</i> ,)	Magistrate Judge Keith A. Pesto
)	
Defendants.)	

MEMORANDUM AND ORDER

This is a civil rights case brought under 42 U.S.C. § 1983 by Patrick McCamey (“Plaintiff”). On August 16, 2021, Magistrate Judge Keith A. Pesto filed a Report and Recommendation (R&R) recommending that Plaintiff’s complaint be dismissed without leave to amend for failure to state a claim upon which relief can be granted [Doc. 10]. Plaintiff was advised that he had fourteen days to file written objections to the R&R, but he did not do so within the allotted time. On March 8, 2022, this Court entered an order adopting the R&R and dismissing the case with prejudice [Doc. 11].

On March 16, 2022, Plaintiff filed a motion for reconsideration [Doc. 12] of this Court’s March 8, 2022, order, asserting that he never received a copy of Judge Pesto’s R&R, and therefore was unaware of the deadline for filing objections. Giving Plaintiff the benefit of the doubt, this Court entered an order on May 17, 2022, granting Plaintiff fourteen days to file objections to the original R&R. Plaintiff was advised that his failure to file timely objections within the time granted would constitute a waiver of his right to object, and would result in the denial of his motion for reconsideration [Doc. 13].

On May 31, 2022, Plaintiff filed a motion for extension of time to file objections. Judge

Pesto granted the motion and extended the deadline to June 30, 2022 [Doc. 15]. A second motion for an additional 30-day extension was denied by Judge Pesto on June 27, 2022 [Doc. 17]. On August 16, 2022, Magistrate Judge Pesto filed an R&R recommending that Plaintiff's motion for reconsideration, properly construed as a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e), be denied. [Doc. 18]. Plaintiff was advised that he had fourteen days to file written objections to the R&R. See 28 U.S.C. § 636 (b)(1)(B) and (C) and Local Civil Rule 72.D.2. Once again, Plaintiff failed to file objections, and the time to do so has expired.

Upon review of the record and the Report and Recommendation under the applicable "reasoned consideration" standard, *see EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (standard of review when no timely and specific objections are filed), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of the Magistrate Judge in this matter.

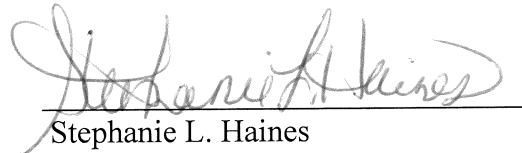
As Judge Pesto observed, Plaintiff has been extended more than ample opportunity to file objections to the original R&R in this case, and he repeatedly has failed to take advantage of that opening. He failed to file objections within the initial 14-day period. After being given the benefit of the doubt that he did not receive the original R&R, he was given a second 14-day window to file objections, and was advised that his failure to do so would constitute a waiver of his right to object. He then was granted an additional 30-day window to file objections. When his request for yet another extension was denied, he filed no objections prior to the expiration of the June 30 deadline. And now he has missed the deadline to object to the second R&R. As Plaintiff previously was cautioned, his failure to timely file objections would result in the denial of his motion for reconsideration. Despite this warning, Plaintiff still to this day has filed no objections to either R&R. His chances now have run out.

Moreover, as Judge Pesto correctly noted, Plaintiff has advanced no grounds for relief under Rule 59(e). *See Wiest v. Lynch*, 710 F.3d 121, 128 (3d Cir. 2014) (setting forth proper bases for a motion to alter or amend judgment).

Accordingly, the following order is entered:

ORDER OF COURT

AND NOW, this 15th day of September, 2022, for the reasons set forth in the Magistrate Judge's Report and Recommendation [Doc. 18], which is adopted in whole as the opinion of the Court as supplemented herein, IT IS ORDERED that Plaintiff's motion for reconsideration [Doc. 12] hereby is **denied**.


Stephanie L. Haines
United States District Judge